IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

-

WRIT PETITION NO : 20508 of 1995

Between:

B.Nagendra Rao s/o.late B.V.Seshachalapathi Rao
Kamalapuram Cuddapah District.

..... PETITIONER

AND

1 Syndicate Bank, represented by its Executive Director,
Manipal Karnataka.
2 The General Manager, Syndicate Bank, Calcutta.
3 The Deputy General Manager, Syndicate Bank,
Zonal Office Calcutta.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction declaring the proceedings of the 1st respondent in proceedings No.162:PD:IRD:DA:7R, Dt.20/11/1993 confirming the order of the 2nd respondent in proceedings No.112/PD:IRD:DA:7, Dt.13/5/1992 and the order of the 3rd respondent passed in proceedings No.6/ZOC:IRC/DA-6, Dt.29/2/1992 as arbitrary, illegal and violative of the Fundamental Rights guaranteed to him under Articles 14 and 16 of the Constitution of India and set aside the same and issue a consequential direction to the respondents to reinstate the petitioner into service with all consequential benefits.

Counsel for the Petitioner: MR.P.VENKAT RAO

Counsel for the Respondents: MR.K.SRINIVASAMURTHY, STANDING COUNSEL.

The Court made the following:

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ORAL ORDER:

The Writ Petition is filed assailing the order of dismissal dated 29.2.1992 passed by the 3rd respondent-Deputy General Manager, Syndicate Bank, as confirmed by the appellate and reviewing authorities.

2. The petitioner was appointed as Clerk in the Syndicate Bank on 3.10.1970. Subsequently he was promoted as Officer in 1985. While so a charge sheet was issued on 11.3.1991 alleging certain misconduct falling within Regulation Nos.3(i) and 15(i) read with Regulation No.24 of the Syndicate Bank Officer Employees (Conduct) Regulations, 1976. The charges pertains to the transactions between the period from 3.6.1985 to 29.8.1985 while he was working as Manager of Chirukurapadu Branch. The following charges were framed against the petitioner:

> Articles of Charge No.1:
>
> That during the period between 3.6.1985 and 29.8.1988, you were functioning as Manager of our Chirukurapadu branch and that while functioning as such:
>
> a. during the period between 1.4.1986 and 16.4.1988 you authorized payment of 11 cheques/withdrawal slips, debit slips in respect of 11 parties, involving sums aggregating Rs.47,265.60 without the debits in relation thereto, having been property accounted for in the relative SB/OD accounts of the parties concerned.
>
> b. During the period between 18./6.1987 and 11.1.1988 you made fictitious credit entries with false details into the SB accounts of 6 parties, involving sums of Rs.30,987/- and allowed withdrawals there against;
>
> c. During the period between 16.7.1987 and 18.12.1987 you inflated the credit balance involving sums to the tune of Rs.10,000/- resorting to manipulation of figures, in the SB account of four parties and allowed withdrawals

there against;

d. On 10.3.1988 you issued a Vikas Cash Certificate for Rs.1,000/- without accounting for the monies in relation thereto, in the books of the Branch;

e. On 26.4.1988 you transferred a sum of Rs.1,507/- from SB account No.1248 of Sri C.Koteswara Rao towards his FLC account No.94/87 and got the said FLC account closed and thereafter on 16.5.1988, you cancelled the debit entry of Rs.1,507/- made in the SB account ledger folio and enhanced/inflated the credit balance in the SB account accordingly, without however canceling the credit entry made in the party's FLC account as said above and thereafter allowed the party to withdraw such nominees from his SB account.

In authorizing/conducting the above transactions, you indulged in falsification of accounts and records in detriment to the interests of the Bank.

By your above acts, you failed to discharge your duties with utmost integrity and honesty and exhibited conduct unbecoming of the status of a Bank Officer and thus contravened Regulation 3(1) read with Regulation No.24 of the Syndicate Bank Officer Employees' (Conduct) Regulations, 1976.

Articles of charge No.II:

That on 5.8.1988 you got released a sum of Rs.25,000/- from our Banaganapalli Branch being the first instalment of the II stage Housing Loan sanctioned to you by the Bank, for the purpose of alterations and additions to be effected toyour existing house building, but failed to utilize the amount for the purpose for which it was advanced and thus misutilised the funds belonging to the Bank.

By your above acts, you failed to discharge your duties with utmost integrity and honest and exhibited conducted unbecoming of the status of a Bank Officer and thus contravened Regulation 3(1) read with Regulation No.24 of the Syndicate Bank Officer Employees' (Conduct) Regulations, 1976.

Articles of Charge No.III

That in your individual capacity, you borrowed moneys and placed yourself under pecuniary obligation to (a) Sri K.Bapaiah and b) Sri K.Krishna, your subordinate employees, and (a) Sri D.Subbarayudu, (b) Sri N.Sreeramulu, (c) Sri G.Gopal Rao; (d) Sri

K.Venkateshwarlu, (e) Sri B.Malakondaiah and (f) Sri N.Malakondaiah, customers of the Branch having dealings with the Bank.

By your above acts, you violated Regulation No.15(i) read with Regulation No.24 of the Syndicate Bank Officer Employees' (Conduct) Regulations, 1976.

The petitioner submitted explanation denying the charges levelled against him. Thereafter an enquiry was conducted and in the enquiry witnesses were examined and certain documents were also filed. Ultimately, on the basis of the enquiry, the Enquiry Officer found that excepting sub-charges, all the charges were proved. Thereafter the matter was considered by the disciplinary authority and passed the dismissal order dated 29.2.1992. Against which he filed an appeal unsuccessfully. Thereafter a Review was also filed and the same was also dismissed. Hence the present Writ Petition has been preferred.

3. The learned counsel for the petitioner raised the following contentions:

That the enquiry was not conducted in a fair and proper manner. The accounts relate to 1984-85 and the charge sheet was issued in 1995 and thus the charges are stale in nature. He also submits that necessary documents have not been furnished to him, with the result he was subjected to prejudice. Alternatively he also submits that the punishment as awarded by the disciplinary authority is highly unconscionable and it deserves to be set aside and minor punishment other than dismissal would have meet the ends of justice. Thus, he submits that the order is liable to be set aside.

4. On the other hand the learned Standing Counsel for the respondents submit that the charges as framed are very serious in nature and it was found that the petitioner was responsible for falsification of accounts and records, and hence the enquiry is quite legal and valid and the action taken by the authority is proper and it does not call for any interference.

5. I have heard the learned counsel for the parties at length.

6. The contention that the fair and proper opportunity was not afforded to the petitioner is not borne out by any record. But as seen from the order of the Enquiry Officer and also the appellate authority, it has been categorically stated that the enquiry was conducted in a proper manner and the petitioner did not

make any grievance during the pendency of the enquiry.

7. With regard to the staleness of the charges, the petitioner actively participated in the enquiry and therefore it is not open for him at this belated stage to resile from it and contend that the enquiry is vitiated on account of staleness of the charges.

8. Even with regard to the non-furnishing of documents, the authorities have clearly recorded a finding that all the documents were placed before the Enquiry Officer and the petitioner was also given an opportunity to peruse the said documents and therefore in the absence of any prejudice that has been caused for non-furnishing of documents, it cannot be said the failure to furnishing of documents resulted in miscarriage of justice.

9. The last contention that the punishment is unconscionable is also not accepted. The charges as framed against the petitioner, which are referred to above, are serious in nature. Even though some of the sub-charges were not proved, yet the main charges relate to misappropriation of amount and preparation and making fictitious credit entries in the accounts of agriculturists were held proved. Thus, I do not find any ground to interfere with the order passed by the 3rd respondent.

10. Accordingly the Writ Petition is dismissed. No costs.

17-02-2005

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Executive Director, Syndicate Bank,
Manipal Karnataka.
2 The General Manager, Syndicate Bank, Calcutta.
3 The Deputy General Manager, Syndicate Bank,
Zonal Office Calcutta.

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